would have the same impact on an airport. As stated above, engine outs do not happen only near an airport. Further, this logic would render useless all regulations regarding structure clearance at or around an airport. Cannons of statutory construction state that interpretation of a statute or regulation should avoid rendering that statute or regulation superfluous (*See, e.g. Bailey v. United States*, 516 U.S. 137, 145 (1995)), and here, as Mr. Reinecke notes, there *are* regulations regarding what structures may be near an airport, and MCPO's route MZK complies with those regulations. (Reinecke, MCPO Ex. 2.0 at 23-24:510-533).

Assuming, *arguendo*, Dr. Emanual confuses a true engine out emergency with practice engine out procedures commonly conducted in an airman's training, his testimony still misses the mark. As Mr. Robert Fischer, a professional airline transport pilot (ATP), flight instructor and airline instructor pilot points out, flights at or below 200' (where here the proposed lines would not exceed 140 feet) would be reckless and unsafe regardless of the presence of transmission lines. (Fischer, MCPO Ex. 5.0 at 2:25-34). This is more than just Mr. Fischer's professional opinion (unlike Dr. Emanual's professional, yet unsupported opinion), such operations are prohibited, and considered hazardous and imprudent by both Federal Air Regulations ("FAR") and the FAA published Airman's Information Manual ("AIM". (See, e.g. FAR 91.119 (a), (c); AIM 4-3-2, 4-3-3, and AIM Figure 4-3-3).

7. Number of Affected Landowners/Stakeholders

PDM correctly notes this factor was not evaluated by the Commission in the original proceeding as it related to the Mt. Zion to Kansas route segment. (*See*, August 20 Order at 98-100). However, PDM again argues that because the Stipulated Route/Route MZK is longer, regardless of

which substation option is used, the Commission must conclude that it affects more property owners. The number of property owners on the Stipulated Route/Route MZK versus the Channon Route or any version of those routes, has not been determined in this case. Neither Staff nor ATXI has addressed this criteria in their Initial Briefs. (ATXI Br. at 39; Staff Br. at 22).

PDM does rely on testimony offered by Staff witness Rockrohr with regard to the Meredosia to Pawnee route segment of the IRP in which Mr. Rockrohr suggested that eliminating 25 miles of the route in question would result in less impacts on landowners. PDM notes that Mr. Rockrohr has testified that routes that are equal in all other ways, and where the length of the line is the only difference in the route, then the longer route would have more negative impact. (PDM Br. at 25-26, citing Mr. Rockrohr, Dec. 19 Tr. 356 and Rockrohr Staff Ex. 2.0 at 8:161). PDM again fails to recognize that the three versions of the Stipulated Route/Route MZK and the versions of the Channon Routes and the Staff Routes are not equal. For example, the versions of the Stipulated Route/Route MZK impact substantially fewer residential and non-residential structures; 16 for Route MZK versus 35 for Route CFT; 12 for Route MZK-1 and MZK-2 compared to 31 for Route CFT-1 and CFT-2. (Reinecke, MCPO Ex. 2.0 (RH) at 5:Tables 1 and 2). In addition, the Channon Routes affect more than twice as many acres of residential areas than the MZK Routes. (166 acres for Route MZK and 171 acres for Route CFT; 64 acres for Route MZK-1 and 154 acres for Route CFT-1; and 66 acres for Route MZK-2 and 156 acres for Route CFT-2). (*Id.*). There are even larger differences in the non-residential structures affected by the Channon Routes compared to the versions of the Stipulated Route/Route MZK. (MCPO Ex. 2.2 (RH) Rev. at 4 of 4). However, the exact calculation

of the number of landowners on the two routes has not been made and, therefore, a valid comparison cannot be made on this criteria.

In its discussion of the number of affected landowners and other stakeholders criteria, PDM again rehashes arguments it made in the original proceeding about MCPO's failure to identify and contact individual property owners or conduct public meetings in relation to its proposed route. (PDM Br. at 27). As MCPO previously explained, it had no statutory obligation to conduct public meetings on its proposed route. MCPO proposed its route and presented same in the manner directed by the Administrative Law Judges in this case. Indeed, MCPO has no obligation under Section 8-406.1 to conduct public meetings or a public process. (*See*, 220 ILCS 5/8-406.1). Furthermore, public meetings were held in Piatt and Douglas Counties. Specifically, Phase I, Phase II and Phase III public meetings were conducted. (Reinecke, MCPO Ex. 2.0 at 7:156-158, Table; ATXI Ex. 4.6, Part 8, ATXI Ex. 4.1 at 1). This particular PDM argument was not persuasive in the original proceeding and there is no reason to consider it persuasive on rehearing.

It is also worth observing that to the best of MCPO's knowledge, no party proposing an alternate route in this proceeding conducted public meetings or personally contacted individual landowners to discuss their alternative route proposals. For example, there is no evidence in the record that the Staff of the Illinois Commerce Commission conducted public meetings or personally contacted the landowners affected by its proposed route from Pawnee to Kincaid and Kincaid to Mt. Zion.

PDM argues the Stipulated Route/Route MZK travels within a quarter mile to a half mile of multiple communities resulting in a greater impact on a higher number of citizens. (PDM Br. at 26).

PDM ignores the fact that MCPO designed the Stipulated Route/Route MZK to specifically avoid urban areas, municipalities and areas of planned development. (Reinecke, MCPO Ex. 2.0 at 3:47-50). This is evident from a review of the amount of urbanized land use impacted within the 500-foot analysis corridor for the MZK and CFT Routes. The versions of the Stipulated Route/Route MZK range from 64.2 to 60.5 acres of urban land and the CFT Routes range from 153.5 to 170.5 acres of urban land. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 1). In addition, the only community that has actively intervened in this case along the route from Mt. Zion to Kansas is the Village of Mt. Zion, which has stipulated with ATXI to support Route MZK-2. (ATXI Stip. Ex. 1 (RH)). Furthermore, the Stipulated Route/Route MZK does not cross any of the municipal boundaries of the towns located along U.S. Highway 36 and identified by PDM in its brief. (*See*, Reinecke, MCPO Ex. 2.1 (RH) Rev. at 1-3).

8. Proximity to Homes/Other Structures

The Commission correctly found that this criteria favors the Stipulated Route/Route MZK in the original proceeding. (August 20 Order at 99). PDM alleges, incorrectly, that this is the only factor on rehearing that "marginally" favors the Stipulated Route/Route MZK. (PDM Br. at 27). However, PDM reasons that it is not entirely clear that this is the case because a detailed, ground-level assessment was not performed to accurately identify all homes and other structures. In making this argument, PDM follows its pattern of overlooking, misunderstanding or misstating the evidence in this case.

Reliability of MCPO's Residence and Non-Residential Data

MCPO based its routing analysis on rehearing, on updated data and routing information provided by ATXI. (Reinecke, MCPO Ex. 2.0 (RH) at 3-4:89-90). In developing that updated data and information on rehearing, ATXI visually inspected the Stipulated Route/Route MZK. (Murphy, Dec. 17 Tr. 150-151). Thus, the ATXI rehearing data relied upon by MCPO reflects structure identifications and counts that were confirmed by visual inspection. Indeed, MCPO's residential and non-residential structures counts on rehearing are identical to those of ATXI on rehearing. (*Comparing, Route MZK* on MCPO Exhibit 2.2 RH Rev. at 4 to *Mt. Zion to Kansas ATXI-MCPO Stipulated Route* on ATXI Ex. 3.1 (RH) at 4). On the other hand, the PDM structure counts and Staff structure counts were based on aerial photography which PDM argues in this section of its brief, is "insufficient". (Burns, PDM Ex. 8.0 at 32:668-671; Rockrohr, ICC Staff Ex. 4.0 at 15:302-303). This aerial photography was apparently came from Google Earth and dated between April and May 2012. (*See*, PDM Br. at 34-57). Thus, ATXI's more recent data, based on its own fly overs and visual inspections of the entire route is far superior to PDM's data. As a result, PDM's primary and fundamental argument that the Commission should not rely on the ATXI/MCPO structure count, in evaluating the routes on the basis of Proximity to Homes/Other Structures is without merit.

PDM's arguments regarding the accuracy of the residential and non-residential structure count in the MCPO analysis are without merit. First, it should be noted that the difference in residential structure counts furnished by the parties rests on the fundamental fact that the parties used

different sized analysis corridors[4] to evaluate Proximity to Homes/Other Structures. ATXI and MCPO consistently used the 500-foot corridor that is common to the evaluation of the route segments for the entire IRP and relied upon by the Commission and the parties in the original proceeding. (*See*, ATXI Ex. 4.5 at 4). The PDM analysis was based on a 530-foot corridor and the Staff analysis was based on a corridor of about 400 feet. (Burns, PDM Ex. 8.0 at 32:668-671; Rockrohr, Dec. 19 Tr 358). Another fundamental difference between the various analyses is that, as noted above, the ATXI/MCPO analyses were ultimately based upon a visual inspection by ATXI, while the PDM and Staff analyses were not.[3]

As noted above, the PDM analysis used corridors of different widths to compare the ATXI/MCPO's routes to PDM's own route. PDM's analysis of the MZK, MZK-1 and MZK-2 routes was based on a 530-foot corridor (PDM Br. at 32-52 and 53), while PDM's analysis of its own routes (Channon Hybrid Route) (PDM Br. at 53) were based on a 500-foot corridor. One would not know this by reading the PDM Initial Brief. Rather, it is necessary to go to an exhibit attached to PDM witness Burns testimony (PDM Ex. 8.7) which consists of an ATXI response to a PDM discovery request which Ms. Burns relied upon for her analysis, which clearly shows that the

[4] The residential and non-residential structures were based on a corridor that measured some distance from the route's centerline. MCPO and ATXI's residential and non-residential structure analysis was based on a corridor that measured 500 feet from either side of the route centerline which ultimately was a corridor that measured 1000 feet wide. Similarly PDM refers to a corridor that is 530 feet wide which reflects a total reviewed width of 1060 feet. Staff's corridor was approximately 400 feet from the route centerline which would have a total width of approximately 800 feet.

[3] As an aside, MCPO would also note that its structure count for Route MZK in the original case was based on its own fly over visual inspection. (Reinecke, MCPO Ex. 2.0 at 9:186-187). However, on rehearing, MCPO is relying on ATXI's structure counts for Route MZK that are based on a more recently performed fly over visual inspection of Route MZK.

information ATXI is providing for the Channon Route is based on a 500-foot corridor. It is this information which PDM uses to compare its own route to the ATXI/MCPO route. PDM did not provide an analysis of how many structures fall within a 530 foot corridor of its own route, and such an analysis is not in this record.

PDM also argues that Staff and MCPO missed residences "in close proximity to the MCPO route." (PDM Br. at 33).[4] However, PDM's argument is based on PDM's inappropriate and inconsistent analysis of the MCPO route on the basis of a 530 foot corridor rather than a 500 foot corridor as discussed above. Based on its unequal corridor analysis, PDM, perhaps not surprisingly, manages to identify additional residences which PDM claims MCPO missed, using a concept of "in close proximity" to MCPO's route. In this context, "in close proximity" PDM apparently means within a 530-foot corridor MCPO has constructed to analyze the MCPO route. As discussed above, however, PDM failed to conduct an "in close proximity" analysis with regard to its own route, and instead actually relies on data provided by ATXI which uses a 500-foot corridor. PDM specifically argues that aerial photographs, (which PDM argues elsewhere in its brief are unreliable) show at least 18 residences and likely more on the MCPO Route. (Routes MZK-1 and MZK-2). It goes on to present photos of 18 alleged residences identifying them as residence 2 through residence 19 at pages 34-52 of its brief (PDM did not provide an aerial photograph of residence 1). These are the

[4] The "MCPO Route" that PDM is referring to is Routes MZK-1 and MZK-2, which are associated with Staff's Option #1 and #2 substation locations, respectively. Indeed all of PDM's criticisms appear to be based on the structure count analysis for Routes MZK-1 and MZK-2. (PDM Br. at 33-35).

residences that PDM claims are within a 530-foot corridor along the MZK-1 and MZK-2 Routes. (PDM Br. at 32-52).

The PDM residential structure analysis is not useful. In addition to inappropriately using different corridor widths for the MCPO and Channon routes, and reliance on aerial photography (which PDM itself claims in unreliable), it is important to observe that none of the photographs contain a scale. Therefore, it is not possible to determine from the photograph the distances PDM reports for each alleged residential structure in comparison to the centerline of Route MZK-2. Because these are the photographs relied on by PDM witness Ms. Burns, (*See*, MCPO Cross Ex. 1 on Reh. and PDM Br. at 32-52), it is now apparent the distances she calculates in her testimony for residential structures in relation to Routes MZK-1 and MZK-2 cannot be determined or verified from the photographs. Therefore, the accuracy of her analysis cannot be determined. Such an analysis is not useful or reliable in comparing routes under the "proximity to homes and other structures" criteria especially since PDM did not present a similar analysis for its own route. (*See*, Burns, PDM Ex. 8.0 at 32:679-683, suggesting 530-foot corridor was used and compare to PDM Ex. 8.7 showing 500-foot corridor was used). That is, there is nothing in the record to show how many residential or non-residential structures are within 530 feet of the Channon Route.

The only analysis in the record that compares the routes on this routing factor on a comparable basis, is the analysis performed by MCPO. This analysis provides the residential and non-residential structure count for Routes MZK, MZK-1, MZK-2 CFT, CFT-1, and CFT-2 on a comparable basis, using the same 500-foot corridor used through this case.

The Commission should reject PDM's invitation to engage in the slippery slope "close proximity" creep, in the manner PDM uses it herein, to stretch the analysis corridors beyond the 500 foot width that has been consistently utilized throughout these proceedings to evaluate the proximity to Homes/Other Structures, especially considering that PDM's methodology was only selectively applied by PDM to the ATXI/MCPO route.

In an attempt to further support its claims about the inaccuracy of MCPO's residential structure analysis, PDM argues that MCPO's structure count is inconsistent with ATXI's. PDM claims that MCPO puts the number of residential structures "on its route at 12", but "ATXI puts the number at 16." (Emphasis added). (PDM Br. at 28-29). Unfortunately, this is a continued example of PDM's misunderstanding or mischaracterization of the evidence in this proceeding. PDM is inappropriately comparing a structure count for Route MZK to a structure count for Routes MZK-1 and MZK-2. Comparison of the reference to the 12 residences reported by MCPO in PDM Cross-Exhibit 3, to the 16 residences reported by ATXI in PDM Exhibit 8.7, demonstrates that PDM Exhibit 8.7 provides information relating to what has been identified as Route MZK - the Sulphur Spring Road site to Kansas Route, while PDM Cross-Exhibit 3 refers to the residential structure count for Routes MZK-1 and MZK-2 - the Option #1 site and #2 site to Kansas routes. (*See*, PDM Cross-exhibit 3 - MCPO Response to Channon 2.01, compared to PDM Ex. 8.7, page 1 of 12, first full paragraph). As discussed earlier above, MCPO and ATXI are in complete agreement on rehearing with respect to the number of residential structures within a 500 foot corridor for Route MZK (16) (*Comparing, Route MZK* on MCPO Exhibit 2.2 RH Rev. at 4 to *Mt. Zion to Kansas ATXI-MCPO Stipulated Route* on ATXI Ex. 3.1 (RH) at 4).

PDM has made an invalid "applies to oranges" comparison. All PDM has demonstrated is that Route MZK has four (4) more residential structures within a 500 foot corridor than Routes MZK-1 and MZK-2.

PDM in its initial brief also discusses the identification of a discrepancy in the number of structures along the existing transmission line that is paralleled by Route MZK-1 and MZK-2 (8 versus 6) in order to undermine the reliability of the MCPO structure counts (*See,* PDM Br. at 29-30). However, this discrepancy does not impact the overall residential structure count for these routes, which is 12. (Reinecke, Dec. 18 Tr. 267-268). Therefore, it does not demonstrate any error or mistake in the overall structure count for these routes, contrary to PDM's position.

PDM also attempts to impugn MCPO's non-residential structure data as unreliable because MCPO witness Mr. Reinecke could not identify a specific structure from old aerial photographs upon which he did not rely on (which PDM vigorously argues are not reliable). (PDM Br. at 31). Mr. Reinecke explained he was not able to make the identification on the basis of the photographs presented by PDM during cross-examination, but had he been able to review the digital spatial files (provided by ATXI) which he did rely upon for his analysis, he would have been able to specifically identify those structures. (Reinecke, Dec. 18 Tr. 272-273).

In summary, MCPO's residential and non-residential structure counts are reliably based on up to date information from ATXI that was generated based on ATXI's fly over visual inspection of the Stipulated Route/Route MZK and PDM has failed to demonstrate these counts are inaccurate. Furthermore, what is clear is that regardless of which party's structure counts are used, the Stipulated Route/Route MZK, regardless of the substation location selected by the Commission, significantly

outperforms the Channon and Staff Routes with regard to impacts on residential structures and non-residential structures.

Differences in the Number of Residences Justify the Greater Initial Cost to Ratepayers of the MCPO Route

PDM argues that a differential of nine (or even 15) residences cannot justify the much greater financial cost to ratepayers of the MCPO Route. (PDM Br. at 53-54). Here PDM claims that its analysis disclosed the presence of 21 residences within 530 feet or less of the MCPO Route centerline, as compared to 30 residences within the same corridor for the Channon Route. Thus, PDM alleges there is only a nine residential structure difference between the two routes. PDM again, overlooking or ignoring contrary evidence, fails to recognize that the structure count it identifies for the Channon Route at this point is, as noted above, actually based on a 500-foot corridor, not a 530-foot corridor. (*See*, Burns, PDM Ex. 8.0 at 32:677-682; PDM Ex. 8.7, 9th page, Clm. - Analysis of Corridor Width - 500 Feet; 3rd page, Clm. - Analysis of Corridor 500 Feet, 14th page Clm. Residential Structure and Non-Residential Structure Type - Categorical Distance from Anticipated Alignment, 0 to 75 feet, 75 to 150 feet, 150 to 300 feet, and 300 to 500 feet). PDM did not calculate or does not know the number of residences within 530 feet of the centerline of the Channon Route. Therefore, the calculation of the cost to ratepayers of the MCPO Route at $2 million per residence is simply incorrect. Furthermore, PDM ignores the fact that "ratepayers" in Illinois will only pay 9% of the cost of the IRP. Thus, from the point of view of the Illinois ratepayers, the cost difference would only be $180,000 per residence even under PDM's totally invalid calculation ($2 million per residence x 9%).

Economic Impacts to Farmland

PDM argues that the "proximity to homes and other structures" is a factor that even though it favors adoption of the Stipulated Route/Route MZK, does not justify the greater adverse economic impacts to farmland associated with the Stipulated Route/Route MZK. (PDM Br. at 54). First, PDM asserts there is an economic cost to placing a transmission line in the middle of farm fields as there is with placing a line near a residence. (*Id.*). PDM then goes on to suggest that farm values are necessarily impacted by the presence of the transmission line on farmland. (*Id.*). PDM cites to a publication entitled *2013 Illinois Farmland Values and Lease Trends*. (*Id.*). However, PDM overlooks that this document provides in pertinent part: "Good productivity farms that are square or rectangular with <u>few</u> easements or obstructions, such as electric towers, <u>remain competitive</u> with higher productivity tracts." (Emphasis added). (Burns, PDM Ex. 6.0 at 16:339-341, quoting the subject document.) Thus, it is clear that there could be an easement for the transmission line and some electric towers on farmland and that property would still remain competitive with higher productivity farm tracts. It is also clear, that the placement of a single transmission line or a few supporting structures will not necessarily adversely impact the value of that farmland in any significant way. This is especially true considering that for the entire IRP Primary route, only 1.55 acres of farmland would be taken out of cultivation. (*See*, Trelz, ATXI Ex. 5.0 at 10:198-204).

Finally, in support of this economic impacts to farmland argument, and without any citation to supporting evidence in the record, PDM boldly states that the transmission line easement itself is not even located on residential property for most of the impacted residences. There is no support

for such a statement in the record. No witness has identified or located residential property lines in relation to the proposed easement.

Therefore, PDM has not demonstrated, on the basis of the arguments discussed above, that no clear conclusion can be drawn in regard to the "proximity to homes and other structures" routing criteria. It is abundantly clear that Stipulated Route/Route MZK, regardless of the selected substation site, does substantially better than the Channon Routes with regard to impacts on residential and non-residential structures.

This is especially true in light of the undisputed fact that the MZK routes do better in comparison to the Channon routes the closer to the centerline of any of the routes one analyzes. In the Commission's Order in phase one of these proceedings, the Commission found the following:

> With regard to the number of residential and non residential structures affected by the three routes, the MZK Route is the clear front runner. ..., only one residence is within 75 to 150 feet of the MZK Route centerline, while there are 12 and 17 residences within this distance of ATXI's Primary and Alternate Routes, respectively. As one moves further from the centerline of each route, the number of affected structures continue to favor the MZK Route.
> (August 20 Order at 99).

Clearly, the Commission is concerned not only about how many structures are within 500 feet, but also how close those structures are to the centerline of a route. In this regard, all of the MZK routes continue to be significantly superior to all the CFT routes. For example, with respect to Routes MZK-1 and MZK-2, there are no residential structures within 75 to 150 feet of the centerline. Routes CFT-1 and CFT-2 each have nine within 75 to 150 feet of the centerline. With regard to Route MZK, there are two residential structures within 75 to 150 feet of the centerline.

Route CFT has eleven within 75 to 150 feet of the centerline. As in the original proceeding, the number of affected structures continues to favor the MZK routes. (MCPO Ex. 2.2 (RH) Rev. at 4).

Non-residential Structures within 75 feet of the Channon Family Route

PDM also argues in its initial brief that the six non-residential structures located within 75 feet of the centerline of the Channon Route may not have to be removed. (PDM Br. at 33 and 53). PDM specifically asserts there is flexibility to move the route up to 50 feet on either side of the centerline to avoid non-residential structures. However, PDM has not presented any evidence that illustrates that the line could be moved up to 50 feet in relation to any of these structures without impacting other structures, including non-residential structures. That is, moving the line from 50 feet in either direction to avoid one of these (5 of the 6 structures) non-residential structures, might result in impacting nearby residences or some other non-residential structure. Furthermore, under PDM's logic, the additional residential structures it has allegedly identified along Routes MZK-1 and MZK-2 could be avoided by moving the route as suggested by PDM.

In conclusion, PDM, in its initial brief, has presented no argument that successfully undermines the reality that the record shows that the MCPO routes place significantly fewer residences and non-residential structures in proximity of the Mt. Zion to Kansas portion of the proposed transmission line than the Channon Family routes as detailed in MCPO's initial brief on rehearing and testimony on rehearing (MCPO Br. at 22-23,31 and 39; MCPO Ex. 2.2 RH Rev. at 4).

9. Proximity to Existing Planned Development

While the Commission found in the original proceeding, that this criteria did not appear to favor one route over another, (August 20 Order at 99), PDM claims that the Channon and Staff Routes clearly outperform the Stipulated Route/Route MZK on this criteria. Specifically, PDM argues that the Channon and Staff Routes outperform the Stipulated Route/Route MZK on this criteria because the Stipulated Route/Route MZK runs "unnecessarily close to multiple towns."

PDM is incorrect and again bases its position on a misinterpretation or misrepresentation of the evidence in this proceeding. First, PDM overlooks or ignores the evidence in the record that its route actually passes through a development area along Highway 121 near Sullivan, Illinois. (Rockrohr, Staff Ex. 4.0 (RH) at 17:339-341). The Stipulated Route/Route MZK, when used in combination with the Sulphur Spring Road substation site, would pass through the Village of Mt. Zion development area, according to the Staff. (*Id.* at 345-347). Route CFT, which is used in combination with the Sulphur Spring Road site would also pass through the Village of Mt. Zion development area. (Rockrohr, Staff Ex. 4.0 (RH) at 17:338-348; MCPO Ex. 2.1 (RH) at 4; MCPO Ex. 1.1 (RH), MCPO Br. at 23). However, the Staff also correctly noted that if the Staff's Option #1 or Option #2 substation location is adopted, the Stipulated Route/Route MZK would avoid the Mt. Zion development area. (*Id.* at 17:345-348). The record shows that in the Staff's opinion, the MCPO Route (the Stipulated Route/Route MZK) does not come close to any other residential development. (Rockrohr, Dec. 19 Tr. 373).

PDM also argues that the Stipulated Route/Route MZK passes in close proximity to six towns and without the benefit of any citation to record evidence, alleges that this route has strong

negative visual impact on the existing developments and limits opportunities for growth in all these communities. First, to the best of MCPO's knowledge, none of these communities, (unlike the Village of Mt. Zion), have intervened in this proceeding. Second, not a single witness in this case, including witnesses presented by PDM, have testified to or presented evidence to support PDM's unsubstantiated claim. Furthermore, PDM again ignores the fact that the Stipulated Route/Route MZK was specifically routed to avoid and minimize impacts to urban areas. (Reinecke, MCPO Ex. 2.0 at 3:47).

As noted in Section IV.D.7. above, this is illustrated by the fact that the Stipulated Route/Route MZK, regardless of the substation site selected, affects fewer residential acres than the Channon Routes (regardless of the substation site location) chosen.

It is also demonstrated through a review of the illustrations in MCPO's Exhibit 2.2 (Rev.) A review of that exhibit demonstrates the following:

- The community of Casner is centered on Bentonville Road and U.S. Highway 36 and the MZK Routes are separated from this community by an existing railroad.

- The community of Laplace is centered on an existing railroad, County Road 50 North and State Highway 32. The MZK routes are more than 0.25 miles away from any residential area and located north (away) from the urban corridor of U.S. Highway 36.

- The Hammond, Atwood and Tuscola communities all have defined municipal corporate boundaries, which the MZK routes avoid.

- The Pierson Station community is centered around existing railroads and Main Street. The MZK routes avoid this community and the roads the community is located on.

In sum, the Stipulated Route/Route MZK and the Staff Routes actually outperform the Channon Route in relation to proximity to existing and planned developments if Staff Option #1 or Option #2 substation sites are selected. If the Sulphur Spring Road substation location is selected, then the Stipulated Route/Route MZK would still outperform the Channon Route on this criteria, since the Channon Route would pass through two development areas (Mt. Zion and Sullivan) and the Stipulated Route/Route MZK would pass through one (Mt. Zion). If the Staff Route incorporates the Sulphur Spring Road substation location site, then the Stipulated Route/Route MZK would perform as well as the Staff Route on this criteria, and still outperform the Channon Route.

10. Community Acceptance

PDM argues that because the PDM group consists of 500 intervenors from throughout Piatt and Douglas Counties, the Commission's prior conclusion that the level of support for, or lack of opposition to the MZK Route at least marginally favors the adoption of the MZK route over ATXI's routes in the original case, is no longer justified. (*See*, August 20 Order at 99; PDM Br. at 56). PDM also argues that no intervenor, other than MCPO has submitted testimony opposing the Channon and Staff Routes. (*Id.*). Finally, PDM suggests that the Channon and Staff Routes align with the interest of the other intervenor. (PDM Br. at 58).

First, it should be noted that the only community along the Mt. Zion to Kansas Route (regardless of whether it's a version of the Stipulated Route/Route MZK or the Channon or Staff

Route), to intervene in this proceeding, is the Village of Mt. Zion. The Village of Mt. Zion has stipulated to support the Stipulated Route/Route MZK from the Staff Option #2 substation. It is safe to assume that the population of the Village is well in excess of 500 people. Therefore, if this is a numbers game, more people potentially impacted by the Mt. Zion to Kansas route support some version of the Stipulated Route/Route MZK and have expressly indicated that support through the Village of Mt. Zion's intervention and participation in this case. Furthermore, as previously noted by MCPO, among the active parties in the case, addressing the routing from Mt. Zion to Kansas, all parties, other than PDM, support the Stipulated Route/Route MZK (or in the case of Mt. Zion, a version thereof) and no active party on rehearing to this point has expressed support for the adoption of the Channon Route or any version thereof. Indeed, as noted in Section I above, some parties have essentially opposed the Channon Route. (*See*, Corley Br. at 6 and Brock-Jones Br. at 6).

Furthermore, PDM's claim that the Channon Route aligns with the interest of certain other intervenors, that have not actively participated in the case, overlooks, or ignores the fact that none of these intervenors have specifically stated their agreement with the Channon Hybrid Route. Therefore, the only fact that remains clear in the record is the expression of support for the Stipulated Route/Route MZK that these parties gave in the original proceeding.

In sum, of all the active parties in the case, none expressed support for the adoption of the Channon Hybrid Route and the majority in this rehearing proceeding, and the original proceeding, support the adoption of the Stipulated Route/Route MZK (or some version thereof).

Therefore, under the circumstances, PDM is simply wrong in suggesting that it is "clear that the Channon and Staff Routes dramatically outperform the MCPO Route in regard to community

acceptance." (PDM Br. At 58). Indeed, one could argue based on the positions of the active parties on rehearing, that the MCPO Route clearly outperforms the Channon and Staff Routes in this regard.

11. Visual Impact

PDM argues that the Channon and Staff routes clearly outperform the Stipulated Route/Route MZK in regard to the avoidance of visual impacts. Specifically, they suggest that the Stipulated Route/Route MZK is nine miles longer and would have 50 additional towers and stands and travels in close proximity to multiple towns placing six 90 degree turns at the northern gateway to the Amish community. (PDM Br. at 58-59). PDM suggests these impacts can be avoided by adoption of the Channon or Staff Routes.

PDM's arguments are without merit. As noted in Section IV.D.1. of this Brief, the Stipulated Route/Route MZK varies in length in comparison to the Channon Route, depending on which substation site is selected for the Mt. Zion substation, from 3.0 miles (4.5%) longer to 9.6 miles (15.7%) longer depending on the substation site selected. (Reinecke, MCPO Ex. 2.2 (RH) Rev. at 1-3). Also, as previously noted by MCPO, placing new transmission lines in parallel with existing transmission lines avoids placing new visual impacts where similar visual impacts do not already exist. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 16-17:357-387 and 22:504-509; Reinecke, MCPO Ex. 4.0 (RH) at 2-3:60-64). While the MCPO Route is longer than the CFT Route, the MCPO Route has 13.7 more miles in parallel to existing transmission lines than the CFT Route. (Reinecke, MCPO Ex. 2.3 (RH) - 14.7 miles versus 1.0 mile). As a result, all of the additional length for the Stipulated Route/Route MZK (3.0 miles to 9.6 miles), (depending on the substation location selected) is parallel to existing transmission lines.

Furthermore, even after deducting the additional length of the Stipulated Route/Route MZK over the Channon Route, the Stipulated Route/Route MZK still has 4.1 to 10.7 more miles of its length that is parallel to existing transmission lines than the Channon Route. (10.7 miles for the Stipulated Route/Route MZK versus the Channon Route, 4.1 miles for Route MZK-1 versus the equivalent Channon Route and 5.3 miles for MZK-2 versus the equivalent Channon Route.) (*See*, Dauphinais, MCPO Ex. 1.4 (RH) - Length not Parallel to Existing Transmission Lines - 10.7 miles for Route CFT versus Rout MZK; 4,1 more miles for Route CFT-1 versus Route MZK-1; and 5.3 more miles for CFT-2 versus MZK-2). Thus, in total, the Channon Route introduces 4.1 to 10.7 more miles of visual impact than the Stipulated Route/Route MZK where similar visual impact does not already exist.

Indeed, in the Commission's August 20 Order, the Commission found that visual impact factors favored the MCPO Route because nearly a quarter of its length paralleled existing transmission lines, which minimized the lines visual impact. (August 20 Order at 99-100). PDM claims new evidence in rehearing no longer supports the Commission's finding. MCPO respectfully disagrees.

As has been discussed above, rehearing evidence shows that only one (1.0) mile of the Channon Route parallels existing transmission lines, while 14.7 miles of the MCPO Route parallels existing transmission lines. (Reinecke, MCPO Ex. 2.3 (RH)). Thus, the Commission's findings that the visual impact factor favored the Stipulated Route/Route MZK because of its extensive paralleling of existing transmission lines, is still well supported in the record on rehearing.

In support of its argument that the record no longer supports the Commission's conclusion, PDM puts forward a "hypothetical" suggesting "if the Commission concluded that the transmission line would have a 50% reduction in visual impact along the 14 miles of the MCPO Route where it parallels existing transmission lines, then MCPO Route will still have a greater visual impact . . . because that route is nine miles greater in length than the Staff and Channon Route. (PDM Br. at 59). First, there is no evidence in the record to support such an assumption. Specifically, there is no evidence in the record suggesting there would only be a 50% reduction in the visual impacts associated with placing the proposed transmission line parallel with existing transmission lines. Furthermore, if one changes the hypothetical to assume that visual impacts are reduced by 75%, that would show mathematically that the Stipulated Route/Route MZK would have less visual impact than the Channon Route. Specifically, 75% of 13.7 miles (14.7 miles on MZK Route less than 1 mile on CFT Route) of additional paralleling provides a 10.3 mile reduction in visual impact that exceeds the range of additional length for the Stipulated Route/Route MZK of 3 miles to 9.6 miles versus the Channon Route. PDM's hypothetical does not support a change in the Commission's findings for this factor.

PDM also suggests that Staff witness Rockrohr has testified that a shorter route has less visual impact. (PDM Br. at 59). However, in the very next sentence of its Brief, PDM admits that Mr. Rockrohr actually testified that all else being equal on two competing routes, a shorter route would be more favorable than a longer route. (*Id.*). Yet, all else is not equal in this instance. A route that has a significant amount of its length paralleling existing transmission lines (such as the Stipulated Route/Route MZK), is not visually the same as one that has very little of its length parallel

to existing transmission lines (e.g. the Channon Routes). Therefore, all else is not equal. Thus, Mr. Rockrohr's testimony does not support PDM's argument that rehearing evidence justifies a change in the Commission's finding on this factor.

Next PDM suggests that the Stipulated Route/Route MZK would place towers and spans in close proximity to multiple towns and at the "northern gateway" to certain communities. There is nothing new in this fact, compared to the original proceeding. It is obvious that construction of transmission lines requires the installation of poles and spans. These poles and spans do have a visual impact and the Commission has correctly concluded, in the original proceeding, that the installation of new poles and spans parallel to existing transmission lines reduces visual impact. However, because the Stipulated Route/Route MZK parallels existing transmission lines for almost one-quarter of its length, it will have less visual impact than the Channon Routes which parallels only one mile of existing transmission line. Nothing in PDM's argument changes that fact.

In summary, PDM has failed to identify any evidence on rehearing that would justify a change in the Commission's conclusion that the MCPO Route on an overall basis has less visual impact.

12. Presence of Existing Corridors

PDM argues the Channon and Staff routes clearly outperform the Stipulated Route/Route MZK in regard to the use of existing corridors, and MCPO's routing does not respect the public's stated preference for routing along roads, section lines and property lines - - splitting over 100 farm properties. (PDM Initial Br. at 64)

PDM's arguments are flawed and have no merit. PDM argues roads and section lines are existing corridors that should be utilized (PDM Br. at 60). MCPO agrees, but disagrees with the significance PDM is attempting to place on these corridors versus other existing corridors and PDM's failure to consider the adverse impact on other factors (i.e., residences and non-residential structures) associated with aggressive paralleling of roads and section lines.

The primary purpose of paralleling existing linear features is to take advantage of existing significant visual impact, noise impact, environmental fragmentation and/or agricultural fragmentation in order to avoid the introduction of new such impacts where they did not already exist (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 16:357-361).

Furthermore, not all existing linear features are the same with regard to their degree of visual impact, noise impact, environmental fragmentation and/or agricultural fragmentation. For example, a section line may potentially reflect a cultivation boundary. While there is existing agricultural fragmentation present if the section line in fact reflects a cultivation boundary, that section line does not necessarily have any significant existing visual impact, noise impact or environmental fragmentation unless there are other linear features also present where the section line is located. On the other hand, an existing transmission line of the same size or greater than the proposed transmission line provides a very significant existing amount of visual impact (from the vertical size and horizontal length of the existing transmission line), noise impact (from corona) and environmental fragmentation (from vegetation management within the existing transmission line's easement). This makes it an ideal opportunity for close paralleling provided it does not introduce a valid reliability issue. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 16-17:365-377). ATXI witness Mr.

Hackman has testified the close paralleling of existing transmission lines by the MCPO route does not introduce a valid reliability concern (Hackman, ATXI Ex. 9.0 (RH) at 8:156-166).

The MCPO route has better performance with the Channon route with regard to minimizing the portion of length that is not parallel to existing transmission lines. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 17:391-396). It also has better performance with regard to the portion of length that is not parallel to existing linear features when existing major roads and railroad are included (*Id.*). If this is further expanded to include minor roads and other utility right-of-way, the MCPO route and Channon route have comparable length that does not parallel existing linear features. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 17:397-399). Only when section lines are added, does the MCPO route have more length that does not parallel existing linear features (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 17:399-400). However, given that existing transmission lines, major roads and railroads represent existing linear infrastructure with more significant visual impact, noise impact, environmental impact than minor roads, other utility right-of-way or section lines, the MCPO route is a clear winner over the Channon route with regard to minimizing the length not parallel significant existing linear features. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 17-18:400-405). Furthermore, the marginal benefit of additional section line paralleling by the Channon route versus the MCPO route can only be achieved by placing a significant number of additional residences both within 150 feet and within 500 feet of the proposed transmission line. (MCPO Ex. 1.2 (RH) 2C).

PDM claims MCPO concedes its route is inferior on paralleling existing corridors (PDM Br. at 60). This is not accurate. PDM correctly indicates that Mr. Dauphinais and Mr. Reinecke did both recognize that, when section lines are included, the MCPO route has more total length that is not

parallel to existing linear features than the Channon route (*Id.*). However, neither Mr. Dauphinais nor Mr. Reinecke stated the MCPO route is inferior on paralleling existing corridors. Specifically, as noted above, Mr. Dauphinais has testified and provided evidence that section lines are far less significant than existing transmission lines, major roads and railroads and the additional paralleling of section lines by the Channon route comes at the cost of placing a significant number of additional residences both within 150 feet and within 500 feet of the proposed transmission line. He concluded that when this is considered, the MCPO route has better paralleling performance than the Channon route (Dauphinais, MCPo Ex. 1.0 (RH) 2C at 17-18:391-405).

PDM also attempts to argue that the alleged bisection of additional farm tracts by the MCPO route versus the Channon route is an indication that the CFT route better utilizes existing corridors (PDM Br. at 61-62). However, there is a serious question with regard to how PDM's witness Ms. Burns assembled her bisection of farm tracts number. Mr. Reinecke testifies that it appears Ms. Burns utilized only field borders as identified by the Farm Services Agency that was dated from 2008 and an undated aerial photograph and that the only way to properly know whether the proposed line bisects a property is by conducting a survey. (Reinecke, MCPO Ex. 2.0 (RH) at 9:213). As a result, Ms. Burns estimates on paralleling property lines and tracts bisected are at best a rough estimate (Id.). Mr. Reinecke also notes the MCPO route was laid-out to best reflect all of the public input factors, not just agricultural use areas (Reinecke, MCPO Ex. 2.0 (RH) at 10:222-229). As a result, the MCPO route provides better performance on nearly all of the ATXI Phase I and Phase II high sensitivity factors (Id.). Mr. Reinecke also testifies that the ownership of these farm tracts will not be split. ATXI will not be acquiring ownership of the 150-foot transmission corridor – it will

only be acquiring an easement. The property owners of each of these farm tracts will retain ownership of the tract and the ability to continue to farm within the easement. (Reinecke, MCPO Ex. 2.0 (RH) at 10:230-238). Finally, as MCPO has previously indicated in this Brief, it is important to recognize the limited nature of impacts on farmland placed within the 500-foot analysis corridor. Specifically, the placement of a new transmission line in cultivated lands or pasture land (even where there is Prime Farmland) only removes from production the land at, and very close to, the foundation of the associated structures. In addition, the overhead wires between the structures neither remove land from production nor introduce any significant agricultural fragmentation. (Dauphinais, MCPO Ex. 1.0 (RH) 2C at 22:510-516).

PDM also argues MCPO's route design disregards the public's preference for routing along roads, section lines and property lines (PDM Br. at 62). This is not correct. Approximately 20% of the MCPO route's entire length is closely parallel to existing minor roads and section lines (13.2 of 69.2 miles for Route MZK, 14.7 of 70.7 miles for Route MZK-1 and 14.2 miles of 70.2 miles for Route MZK-2) (MCPO Ex. 2.3 RH). Furthermore, this does not consider the portion of the MCPO route that parallels existing transmission lines that in turn may simultaneously closely parallel major roads, minor roads or section lines. (*See, Id.*).[5]

[5] MCPO Exhibit 2.3 RH provides paralleling from the most significant type of existing linear feature to the least significant type of linear feature. In doing so, it counts any length that simultaneously parallels more than one type of existing linear feature only as only paralleling the most significant of those multiple types of existing lineal features. This is evident in that the mileage numbers for each route in MCPO Exhibit 2.3 RH only add up to the total length of the route. Thus, any length that parallels both existing transmission lines and, for example, sections line, in only counted toward the mileage presented for paralleling existing transmission lines.

What MCPO's experts have done has balanced the preference expressed in ATXI's public meetings for routing along roads, section lines and property lines with the other expressed sensitivities and their electric transmission line routing experience. In his direct testimony in the original proceeding, Mr. Reinecke pointed out that ATXI witness Murphy has indicated there is an "inherent conflict associated with paralleling existing roadways while also minimizing the potential impact to exiting residences since homes are more typically along roads in rural areas." (Reinecke, MCPO Ex. 2.0 at 5-6:118-124; Murphy, ATXI Ex. 4.0 at 19-20:404-409). Mr. Reinecke also indicated that she testified that the potential impacts associated with crossing cultivated fields is mitigated through the use of single shaft steel poles, as there would be reduced ground disturbance, compaction and crop damage. (Reinecke, MCPO Ex. 2.0 at 6:121-124; Murphy, ATXI Ex. 4.0 at 10-11:214-220). He further testified that he came to the realization that crossing cultivated fields was going to be a requirement in some cases to avoid impacting residential and non-residential structures (Reinecke, MCPO Ex. 2.0 at 6:131-132). Despite this realization Mr. Reinecke, in developing the MCPO route, used field lines as a proxy for property lines and followed existing field lines where possible, but not at the cost of ignoring other high sensitivities, such as residential and non-residential structures, woodland and ATXI-identified school sites (Reinecke, MCPO Ex. 2.0 (RH) at 9:206-210). In explaining why he did not put an emphasis on paralleling road, property lines and section lines in his routing analysis, Mr. Dauphinais testified in the original proceeding:

> *Something appears amiss with the paralleling preferences results from the Phase II public meeting exercise for closely paralleling existing linear features. Those results place large emphasis on paralleling roads despite the apparent discussion that took place with regard to the inherent conflict between paralleling existing roadways*

and minimizing the potential impact to residences since homes are more typically located along roads in rural areas. While existing roads in proportion to their level of development are a significant linear disturbance, they do not involve the same amount of existing impact as existing transmission lines. Furthermore, the Phase II paralleling preference exercise results do not differentiate between type of road. For these reasons, I put more weight on my transmission line routing experience with regard to utilizing paralleling opportunities rather than the results from the Phase II paralleling opportunity exercise.
(Dauphinais, MCPO Ex. 1.0 at 39:851-868).

Furthermore, in discussing the value of additional section line paralleling versus residence impacts he testified:

At best, section lines by themselves represent property boundaries and/or cultivation boundaries. There is no significant existing visual impact, noise impact and/or environmental fragmentation associated with them. Thus, the significant additional adverse impact on residences is not justified by the additional paralleling of section lines by these two routes and the additional paralleling opportunity benefits by associated with the additional paralleling of section lines by these two transmission routes is on a net basis meaningless
(Dauphinais, MCPO Ex. 1.0 at 41:899-907).

PDM lastly repeats its argument that there is no net benefit from the Stipulated Route/Route MZK extensive paralleling of exiting transmission lines (PDM Br. at 63). This is a repeat of the same argument PDM made with regard to visual impact. For the reasons laid out above in Section IV.D.11..by MCPO in response to PDM's visual impact arguments, PDM's arguments in this regard are unpersuasive.

Contrary to the PDM arguments, the MCPO routing did consider and incorporate public concerns about routing along roads, etc., but not at the expense of affecting residential structures. Furthermore, the MCPO Route does well with regard to presence of existing corridors when one

considers the MCPO Route parallels 14.7 miles of existing transmission lines and at least 14.7 miles to 16.2 miles of roads, railroads, and section lines. (*See*, MCPO Ex. 2.3 RH, Clms Minor Roads and Major Roads, Clm. Section Lines and Clm. Section lines + Clm. Major Roads).

Thus, the MCPO routes parallel some linear feature for 29.4 miles for Route MZK from Sulphur Spring Road and 30.9 miles for Routes MZK-1 and MZK-2 from Staff substation sites Option #1 and Option #2, while at the same time avoiding many more residences than the MCPO Route.

CONCLUSION

For these and all the reasons discussed herein, MCPO concludes that, regardless of substation location, the Commission should approve the associated ATXI/MCPO Stipulated Route from Mt. Zion to Kansas.

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PROOF OF SERVICE

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COUNTY OF MADISON :

I, Eric Robertson, being an attorney admitted to practice in the State of Illinois and one of the attorneys for Moultrie County Property Owners, Inc., herewith certify that I did on the 7th day of Januaryr, 2014, electronically file with the Illinois Commerce Commission, the Reply Brief on Rehearing of the Moultrie County Property Owners, Inc., and electronically served same upon the persons identified on the Commission's official service list.

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SUBSCRIBED AND SWORN to me, a Notary Public, on this 7th day of January, 2014.

Notary Public

"OFFICIAL SEAL"
BARBARA BRANDT
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES JULY 7, 2015